



DOCKET FILE COPY ORIGINAL

02-278

Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D.C. 20554

CGB

SEP 30 2003

Control No. 0302762/kah

The Honorable Steve Buyer
U. S. House of Representatives
2230 Rayburn House Office Building
Washington, D. C. 20515

RECEIVED

OCT 10 2003

Federal Communications Commission
Office of the Secretary

Dear Congressman Buyer:

Thank you for your letter on behalf of your constituent, James D. Montoya, regarding the Federal Communications Commission's (Commission) recent amendment to the rules implementing the Telephone Consumer Protection Act of 1991 (TCPA).

On September 18, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) in CG Docket No. 02-278, seeking comment on whether it should change its rules that restrict telemarketing calls and unsolicited fax advertisements, and if so, how. The NPRM sought comment on the option to establish a national do-not-call list, and how such action might be taken in conjunction with the national do-not-call registry rules adopted by the Federal Trade Commission (FTC) and the numerous state do-not-call lists. In addition, the Commission sought comment on the effectiveness of the TCPA's unsolicited facsimile advertisement rules, including the Commission's determination that a prior business relationship between a fax sender and recipient establishes the requisite consent to receive advertisements via fax. The Commission received over 6,000 comments from individuals, businesses, and state governments on the TCPA rules.

The record in this proceeding, along with our own enforcement experience, demonstrated that changes in the current rules are warranted, if consumers and businesses are to continue to receive the privacy protections contemplated by the TCPA. As explained in the Commission's Report and Order released on July 3, 2003, the record indicated that many consumers and businesses receive faxes they believe they have neither solicited nor given their permission to receive. Consumers emphasized that the burden of receiving hundreds of unsolicited faxes was not just limited to the cost of paper and toner, but includes the time spent reading and disposing of faxes, the time the machine is printing an advertisement and is not operational for other purposes, and the intrusiveness of faxes transmitted at inconvenient times, including in the middle of the night.

No. of Copies rec'd 2
List ABCDE

As we explained in the Report and Order, the legislative history of the TCPA indicates that one of Congress' primary concerns was to protect the public from bearing the costs of unwanted advertising. Therefore, Congress determined that companies that wish to fax unsolicited advertisements to customers must obtain their express permission to do so before transmitting any faxes to them. The amended rules require all entities that wish to transmit advertisements to a facsimile machine to obtain permission from the recipient in writing.

The Commission's amended facsimile advertising rules were initially scheduled to go into effect on August 25, 2003. However, based on additional comments received since the adoption of the July Report and Order, the Commission, on its own motion, determined to delay the effective date of some of the amended facsimile rules, including the elimination of the established business relationship exemption, until January 1, 2005. The comments filed after the release of the Report and Order indicate that many organizations may need additional time to secure this written permission from individuals and businesses to which they fax advertisements. Enclosed is a copy of the Commission's Order on Reconsideration, released on August 18, 2003.

We appreciate Mr. Montoya's comments and have placed a copy of his correspondence in the public record for this proceeding. Please do not hesitate to contact us if you have further questions.

Sincerely,


For K. Dane Snowden

Chief

Consumer & Governmental Affairs Bureau

Enclosures



/17/2003 14:04 FAX 2022252267

CONG STEVE BUYER

001

COMMITTEE ON ENERGY AND COMMERCE

SUBCOMMITTEES:

HEALTH

ENERGY AND AIR QUALITY

ENVIRONMENT AND HAZARDOUS MATERIALS

COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE CHAIRMAN:

OVERSIGHT AND INVESTIGATIONS

CO-CHAIRMAN:

NATIONAL GUARD AND
RESERVE COMPONENTS CAUCUS

ASSISTANT WMIP

Mr. Paul Jackson
Deputy Director
Office of Legislative Affairs
Federal Communications Commission
445 12th Street, SW
Suite 8C453
Washington, DC 20554
Via Facsimile: (202) 418-2806

Dear Mr. Jackson:

I am contacting you on behalf of James D. Montoya, who is concerned about the business relationship fax provisions adopted by the FCC. Enclosed please find a copy of his letter.

I appreciate your cooperation in this matter. Please direct all questions and correspondence to Laura Zuckerman, in my Washington office.

Best Regards,

Steve Buyer
Member of Congress

SB/lz



CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

September 17, 2003

STEVE BUYER

9TH DISTRICT, INDIANA

www.house.gov/buyer

www.house.gov/writerap

WASHINGTON OFFICE:

2230 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-1404

(202) 225-5037

DISTRICT OFFICES:

148 NORTH PERRY ROAD

PLAINFIELD, IN 46168-0025

(317) 636-0404

100 SOUTH MAIN STREET

MONTICELLO, IN 47860-2328

(574) 563-5810

C. G. B.
TCRA - Policy
27602

22 SEP 2003 RCVD

RECEIVED TIME SEP. 17. 1:50PM

PRINT TIME SEP. 17. 1:50PM



Comm

INTERNATIONAL ASSOCIATION OF SPEAKERS BUREAUS
2780 WATERFRONT PKWY EAST DRIVE, SUITE 120, INDIANAPOLIS, IN 46214
TELEPHONE 317-297-0872 FAX 317-387-3387

21

Founded 1986

August 12, 2003

RECEIVED

2003-2004

AUG 22 2003

IASB Officers

President
Brad Plumb, CMP ('04)
Five Star Speakers & Trainers

President Elect
Dick Hall ('04)
Dick Hall Productions, Inc.

Secretary/Treasurer
Karen Kendig ('04)
The Speakers-Network, Inc.

Imm. Past President
Nancy Lauterbach ('04)
Five Star Speakers & Trainers

Exec. Vice-President
James D. Montoya, CAE

Board of Governors
Linda Davidson ('05)
CANSPEAK Presentations, Ltd.

Artiyan Greenbaum ('04)
Authors Unlimited, Inc.

Brian Palmer ('06)
National Speakers Bureau, Inc.

Nan Pratt ('05)
Standing Ovations

Shayna A. Stillman ('04)
Washington Speakers Bureau, Inc.

Renee Strom ('05)
The Speakers Bureau, Inc.

IASB Legal Counsel

Russell Cox
Attorney at Law

Founder

Dottie Walters
Walters' International
Speakers Bureau

Honorable Steve Buyer
House of Representatives
2230 Rayburn House Office Building
Washington, DC 20515-1404

Dear Congressman Buyer:

Thank you, for your response to my contact regarding "junk fax." However, your letter only told me what I already know about the FCC rules. That's the problem. The rules adversely affect the way professional societies and trade associations communicate with their members.

As an example, with the way the FCC rules now stand, we would be in violation of those rules if we do not have written permission from each of our members before we faxed them information and the registration form for our annual convention. Don't you feel that is beyond the intent of the FCC rules? For some associations, that have thousands of members, it is unreasonable to expect them to get signed permission from each of their members before they fax them anything. What is even worse is to have to determine which members have agreed to it and which members have not given approval.

On behalf of the International Association of Speakers Bureaus I am asking for your support to see that professional societies and trade associations are exempt from this ruling as long as they are only soliciting their members.

Sincerely,

[Signature]
James D. Montoya, CAE
Executive Vice President

RECEIVED TIME SEP. 17. 1:50PM

PRINT TIME SEP. 17. 1:50PM